

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HENRY MEYER "KIMO" FIELD,) CIVIL NO. 12-00005 ACK-KSC
JR.,)
Plaintiff,) FINDINGS AND
vs.) RECOMMENDATION TO DENY
K-SEA TRANSPORTATION, LLC;) PLAINTIFF'S MOTION FOR
RICHARD FALCINELLI; JAMES) DEFAULT JUDGMENT
PONTIN; JIM BROWN,)
Defendants.)

)

FINDINGS AND RECOMMENDATION TO DENY
PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

Before the Court is Plaintiff Henry Field's ("Plaintiff") Motion for Default Judgment ("Motion"), filed February 29, 2012. The Court finds this matter suitable for disposition without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice of the United States District Court for the District of Hawaii ("Local Rules"). After carefully considering the Motion and the applicable law, the Court hereby FINDS AND RECOMMENDS that the district court DENY Plaintiff's Motion.

Plaintiff seeks default judgment against Defendants because they have failed to correspond with him. Plaintiff asks that the Court find Defendants liable for damages totaling \$120 million. Plaintiff's request for default judgment is premature, insofar as an entry of default must precede a motion for default judgment. See Fed. R. Civ. P. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default."). Default has not entered against Defendants, nor would it likely enter even if Plaintiff made a formal request because Defendants timely filed an Answer on February 28, 2012. Doc. No. 7 (Stipulation for Extension of Time for Defendants to Respond to Complaint). Accordingly, the Court recommends that the district court DENY this Motion.

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, March 1, 2012.



A handwritten signature in black ink that appears to read "KSC".

Kevin S.C. Chang
United States Magistrate Judge

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FINDINGS AND RECOMMENDATION TO DENY PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT